



Frequently Asked Questions for Shutdown Furloughs

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A. General

A1. What is a furlough?

- A. A furlough is the placing of an employee in a temporary nonduty, nonpay status because of lack of work or funds, or other nondisciplinary reasons.

A2. What is a shutdown furlough and why is a shutdown furlough necessary?

- A. In the event that funds are not available through an appropriations law or continuing resolution, a “shutdown” furlough occurs. A shutdown furlough is necessary when an agency no longer has the necessary funds to operate and must shut down those activities which are not excepted pursuant to the Antideficiency Act.

B. Excepted Employees

B1. Who are “excepted” employees?

- A. In the context of shutdown furloughs, the term “excepted” is used to refer to employees who are funded through annual appropriations who are nonetheless excepted from the furlough because they are performing work that, by law, may continue to be performed during a lapse in appropriations. Excepted employees include employees who are performing emergency work involving the safety of human life or the protection of property or performing certain other types of excepted work. Agency legal counsels, working with senior agency managers, are determining which employees are designated to be handling “excepted” and “non-excepted” functions. See <http://www.opm.gov/furlough/OMBGuidance/index.asp> for copies of DOJ issuances, which provide guidance on the application of these criteria.

B2. Are all employees who qualify as “emergency employees” for the purpose of weather emergencies considered to be “excepted employees” for the purpose of a shutdown furlough?

- A. Not necessarily. “Emergency employees” are those employees who must report for work in emergency situations—e.g., severe weather conditions, air pollution, power failures, interruption of public transportation, and other situations in which significant numbers of employees are prevented from reporting for work or which require agencies to close all or part of their activities. Emergency employees are not automatically deemed excepted employees for purposes of shutdown furloughs. Each agency must determine which employees are excepted employees based on the law.



B3. Who are “exempt” employees?

- A. Employees are “exempt” from furlough if they are not affected by a lapse in appropriations. This includes employees who are not funded by annually appropriated funds. Employees performing those functions will generally continue to be governed by the normal pay, leave, and other civil service rules.

B4. What about employees who are neither “excepted” nor “exempt?”

- A. Employees who are funded through annual appropriations but are not designated as excepted are barred from working during a shutdown, except to perform minimal activities as necessary to execute an orderly suspension of agency operations related to non-excepted activities. These employees will be furloughed.

B5. How will employees be notified whether they have been designated to be handling “excepted” functions or not?

- A. Each agency will determine the method and timing of notifying employees of whether they have been designated as an excepted employee.

C. Working during Furlough

C1. May an employee volunteer to do his or her job on a nonpay basis during a shutdown furlough?

- A. No. Unless otherwise authorized by law, an agency may not accept the voluntary services of an employee. (See 31 U.S.C. 1342.)

C2. What happens to employees scheduled for training during a shutdown furlough?

- A. Employees who are neither excepted nor exempt and are scheduled for training during a shutdown furlough must be placed in a furlough status and ordered not to attend the scheduled training.

C3. May employees take other jobs while on furlough?

- A. While on furlough, an individual remains an employee of the Federal Government. Therefore, executive branch-wide standards of ethical conduct and rules regarding outside employment continue to apply when an individual is furloughed (specifically, the executive branch-wide standards of ethical conduct (the standards), at 5 CFR part 2635). In addition, there are specific statutes which prohibit certain outside activities, and agency-specific supplemental rules that require prior approval of, and sometimes prohibit, outside employment. Therefore, before engaging in



outside employment, employees should review these regulations and then consult their agency ethics official to learn if there are any agency-specific supplemental rules governing the employee.

C4. If an employee receives a temporary appointment in another agency while furloughed, what happens to his/her benefits (e.g., retirement, health benefits, life insurance, leave)?

- A. Retirement, health benefits, and life insurance are handled as if the employee had actually transferred to the new agency. Leave balances are transferred as if the employee had actually transferred. (See Comptroller General opinion B-167975, September 1, 1970.)

C5. How should an agency determine the number of furlough hours for alternative work schedule (AWS) employees during a shutdown furlough? Can an employee reschedule a non-workday that occurred during the furlough?

- A. Employees are furloughed based on the number of hours they are scheduled to work on the days for which there is a shutdown furlough. Each agency that has an AWS program should have a policy specifying how flexible and compressed work schedules must be established and when they may be changed. Normally, such schedules are established in advance of the pay period involved. Under such a policy, an AWS non-workday scheduled to occur during a shutdown furlough should not be changed after the pay period begins.

C6. How are personnel working for Federal agencies under mobility agreements pursuant to the Intergovernmental Personnel Act (IPA) treated in a shutdown furlough?

- A. The specific authority for furloughing personnel who are working under mobility agreements pursuant to the IPA, either inside the Federal Government or with other organizations, will depend upon the nature of individual agreements, the status of the appointments, and/or the funding arrangements for the assignments. As a general rule, the following principles are applicable in determining whether to furlough personnel on IPA mobility assignments:
- Personnel from non-Federal organizations on appointments to the Federal Government are subject to furlough in the same manner as other employees.
 - Personnel on detail to Federal agencies from non-Federal organizations may continue working, provided that the non-Federal organizations pay the total costs of the detail.
 - Personnel on detail to Federal agencies from non-Federal organizations that share part of the costs of detail may continue to work if the Federal portion of the cost was obligated from prior appropriations at the time of the IPA mobility agreements. In the event that a furlough takes place during a time for which no funds are appropriated, the assignment should be terminated.



- Personnel on detail to Federal agencies from non-Federal organizations that do not pay or share the costs of the detail are subject to furlough in the same manner as other employees.

D. Pay

D1. Will excepted employees be paid for performing work during a shutdown furlough? If so, when will excepted employees receive such payments?

- A. Agencies will incur obligations to pay for services performed by excepted employees during a lapse in appropriations, and those employees will be paid when Congress passes and the President signs a new appropriation or continuing resolution.

D2. Will employees who are furloughed get paid?

- A. Congress will determine whether furloughed employees receive pay for the furlough period.

D3. Will employees receive pay for hours worked prior to the lapse in appropriations?

- A. Under the current Office of Management and Budget (OMB) guidance, employees will receive this paycheck. As necessary, the payroll staff needed for this process will be excepted from furlough for the minimum time required to issue the checks. (See [OMB's August 28, 1980, Bulletin No. 80-14, Shutdown of Agency Operations Upon Failure by the Congress to Enact Appropriations, paragraph 3.b.\(1\) Appropriations and Funds.](#))

D4. When an employee's pay is insufficient to permit all deductions to be made because a shutdown furlough occurs in the middle of a pay period and the employee receives a partial paycheck, what is the order of withholding precedence?

- A. Agencies will follow the guidance on the order of precedence for applying deductions from the pay of its civilian employees when gross pay is insufficient to cover all authorized deductions found at <http://www.chcoc.gov/transmittals/TransmittalDetails.aspx?TransmittalID=1477>.

E. Performance Awards and Within-Grade Increases

E1. If agency performance management policies and practices require the payment of performance awards to employees, can the payment be delayed until after the shutdown furlough?

- A. Yes. Neither law nor regulation requires agencies to pay performance awards granted under 5 U.S.C. Chapters 43 and 45 and 5 CFR 451.104(a)(3). If agency performance management policies and practices require the payment of performance awards, agencies may delay payment until after the furlough when funds are available.



E2. Are agencies required to pay performance awards to Senior Executive Service (SES) career appointees during a shutdown furlough?

- A. No. The applicable law (5 U.S.C. 5384) and regulation (5 CFR 534.405) do not specify when an SES performance award must be paid to a career appointee, nor do they provide a basis to pay awards when no appropriated funds are available for that purpose. Therefore, if a shutdown furlough intervenes, an agency may defer payment of SES performance awards until after the furlough, when funds are available.

E3. May agencies deny or delay within-grade or step increases for General Schedule and Federal Wage System employees during a shutdown furlough?

- A. It depends on how long the shutdown furlough lasts. Within-grade and step increases for General Schedule (GS) and Federal Wage System employees are awarded on the basis of length of service and individual performance. Such increases may not be denied or delayed solely because of lack of funds. However, extended periods of nonpay status (e.g., because of a furlough for lack of funds) may affect the timing of such increases. For example, a GS employee in steps 1, 2, or 3 of the grade who is furloughed an aggregate of more than 2 workweeks during the waiting period would have his or her within-grade increase delayed by at least a full pay period. (See 5 CFR 531.406(b).)

F. Leave and Other Time Off

F1. May an employee not excepted from the furlough take previously approved paid time off (e.g., annual, sick, court, military leave, or leave for bone marrow/organ donor leave, or compensatory time off, including religious compensatory time off) during a shutdown furlough?

- A. No. All paid time off during a shutdown furlough period must be canceled because the requirement to furlough supersedes leave and other paid time off rights. The Antideficiency Act (31 U.S.C. 1341 et seq.) does not allow authorization of any expenditure or obligation before an appropriation is made, unless authorized by law. Paid time off creates a debt to the Government that is not authorized by the Act. Therefore, agencies are instructed that during a shutdown furlough, all paid time off must be canceled.



F2. May an excepted employee take previously approved paid time off or be granted new requests for paid time off during a shutdown furlough?

- A. No. When an excepted employee is not working or not performing excepted activities in compliance with the Antideficiency Act, he or she cannot be in a pay status. Excepted employees must be either performing excepted activities or furloughed during any absence from work. The furlough must be documented by a furlough notice. If an excepted employee refuses to report for work after being ordered to do so, he or she will be considered to be absent without leave (AWOL) and will be subject to any consequences that may follow from being AWOL.

F3. May an employee work during the furlough period to accumulate religious compensatory time off hours for religious observances?

- A. An employee who is not “excepted” may not work during the furlough period, even to accrue religious compensatory time. However, an excepted employee may work additional hours for religious purposes if the employee is performing excepted activities, though the employee may not use those hours until after the lapse in appropriations is over.

F4. If an employee is scheduled to take approved unpaid leave during a shutdown furlough, should the agency provide the employee with a furlough notice?

- A. It depends. If the employee is not expected to work during the furlough period (e.g., a 1-year period of leave without pay to accompany a military spouse overseas), then agencies are not required to provide the employee with a furlough notice. If, however, the employee is scheduled to return from unpaid leave to Federal service during the furlough period, the employee should be provided with a furlough notice (effective on the date of scheduled return), unless the employee is expected to be at work performing an excepted activity.



F5. If an employee is scheduled to take unpaid leave under the Family and Medical Leave Act (FMLA) during a shutdown furlough, should the agency provide the employee with a furlough notice?

- A. It depends. If the employee is not expected to work during the furlough period (e.g., an employee who has just given birth and has requested 12 weeks of unpaid leave (leave without pay (LWOP)) under the FMLA), the agency is not required to provide the employee with a furlough notice. If, however, the employee is scheduled to return from LWOP to Federal service during the furlough period, the employee should be provided with a furlough notice (effective on the date of scheduled return), unless the employee is expected to be at work performing an excepted activity. An employee on LWOP under FMLA during a shutdown furlough may not later substitute paid time off for the days of LWOP.

F6. Does LWOP under FMLA that is scheduled to be taken during a shutdown furlough period count toward the employee's 12-week FMLA leave entitlement?

- A. No.

F7. If an employee is scheduled to take paid leave or other paid time off under FMLA during a shutdown furlough, should the employee be furloughed?

- A. Yes. An employee must be placed in furlough status during any paid time off scheduled to be taken during a lapse in appropriations. If an employee is scheduled to take paid time off under FMLA during a shutdown furlough (either continuously or intermittently), the paid time off must be canceled and the employee must be furloughed for any period during which paid time off was scheduled. Thus, any days of scheduled paid time off are documented as furlough days. Any previously scheduled days of unpaid leave under FMLA will continue to be documented as LWOP. No days associated with a shutdown furlough period will be counted against an employee's 12-week FMLA leave entitlement.

G. Holidays

G1. Will employees get paid for a holiday that occurs during a shutdown furlough?

- A. No. An employee (including excepted employees) who does not work on a holiday will not receive pay for a holiday that occurs during a shutdown furlough.



G2. Can excepted employees be required to perform work on a holiday that occurs during a shutdown furlough?

- A. Yes. Each agency is responsible for determining which excepted activities must be performed on a holiday in order to carry out functions related to such excepted activities. If an excepted employee refuses to report for work on a holiday after being ordered to do so, he or she can be considered absent without leave (AWOL) and will be subject to any consequences that may follow from being AWOL.

G3. What pay entitlements will accrue to an excepted employee who performs work on a holiday during a shutdown furlough?

- A. The Federal Government will be obligated to pay an excepted employee who performs work on a holiday according to the normal rules governing pay for work on a holiday. For example, under 5 U.S.C. 5546(b), a covered employee would receive his or her rate of basic pay, plus holiday premium pay at a rate equal to the employee's rate of basic pay. In addition, if such an employee performs officially ordered or approved overtime work on a holiday (i.e., work in excess of his or her basic non-overtime work requirement for that day), the employee would receive overtime pay (or compensatory time off) for that work. Of course, an employee cannot receive payment for working on a holiday until an appropriations act or a continuing resolution is enacted.

H. Benefits

H1. Will an employee continue to be covered under the Federal Employee Health Benefits (FEHB) program during a shutdown furlough if the agency is unable to make its premium payments on time?

- A. Yes, the employee's FEHB coverage will continue even if an agency does not make the premium payments on time. Since the employee will be in a non-pay status, the enrollee share of the FEHB premium will accumulate and be withheld from pay upon return to pay status.



H2. What happens if an employee wants to terminate Federal Employee Health Benefits (FEHB) coverage while in a nonpay status in order to avoid the expense?

- A. Unlike other types of non-pay status, employees in a non-pay status due to a lapse of appropriations (shutdown furlough) will not have the opportunity to terminate or cancel FEHB coverage. The employee will remain covered; the enrollee share of the FEHB premium will accumulate and be withheld from pay upon return to pay status.

H3. If an employee submitted a new application or a change to his/her health insurance plan (e.g. because of a Qualifying Life Event) and the paperwork was not processed by the agency because of a shutdown furlough, how would the employee seek services or coverage?

- A. New enrollments or changes in enrollment due to a Qualifying Life Event do not take effect until the employee has been back in pay status for any part of the prior pay period.

H4. What happens to an employee's Federal Employees' Group Life Insurance (FEGLI) Program coverage if furloughed?

- A. Coverage continues for 12 consecutive months in a nonpay status without cost to the employee or to the agency. Neither the employee nor the agency incurs a debt during this period of nonpay.



H5. What happens to an employee's Flexible Spending Account (FSAFEDS) coverage if furloughed?

- A. Payroll deductions will cease for any employee that does not receive pay. The employee remains enrolled in FSAFEDS, but eligible health care claims incurred during a non-pay status will not be reimbursed until the employee returns to a pay status and allotments are successfully restarted. The remaining allotments are recalculated over the remaining pay periods to match the participant's election amount.

Eligible dependent care expenses incurred during a non-pay status may be reimbursed up to whatever balance is in the employee's dependent care account – as long as the expense incurred during the non-pay status allows the employee (or spouse if married) to work, look for work or attend school full-time.


H6. What happens to an employee's Federal Long Term Care (FLTCIP) Program coverage if furloughed?

- A. Payroll deductions will cease for any employee that does not receive pay. Coverage will continue so long as premiums are paid. If Long Term Care Partners does not receive payment for three consecutive pay periods, they will begin to direct bill the enrollee. The enrollee should pay premiums directly billed to him/her on a timely basis to ensure continuation of coverage.

H7. What happens to an employee's Federal Dental and Vision (FEDVIP) Program coverage if furloughed?

- A. Payroll deductions will cease for any employee that does not receive pay. BENEFEDS will generate a bill to enrollees for premiums when no payment is received for two consecutive pay periods. The enrollee should pay premiums directly billed to him/her on a timely basis to ensure continuation of coverage.

H8. What is the effect of a shutdown furlough on Thrift Savings Plan (TSP) contributions, investments, and loans?

- A. Employees should refer to the TSP Fact Sheet - [Impact of a Government Shutdown](#)  on the Thrift Savings Plan. Agencies should refer to the Information for Agency/Service Representatives section of the TSP website. In both cases, agency representatives may contact the Federal Retirement Thrift Investment Board at (202) 942-1450 for additional information.



I. Unemployment Compensation

I1. Are employees entitled to unemployment compensation while on furlough?

- A. It is possible that furloughed employees may become eligible for unemployment compensation. State unemployment compensation requirements differ. Some States require a 1-week waiting period before an individual qualifies for payments. In general, the law of the State in which an employee's last official duty station in Federal civilian service was located will be the State law that determines eligibility for unemployment insurance benefits. (See the Department of Labor website "Unemployment Compensation for Federal Employees" at <http://workforcesecurity.doleta.gov/unemploy/unemcomp.asp>.) Agencies or employees should submit questions to the appropriate State (or District of Columbia) office.

J. Service Credit for Various Purposes

J1. Is furlough or leave without pay (LWOP) considered a break in service?

- A. No, both mean the employee is in a nonpay, nonduty status for those days/hours. However, extended furlough or LWOP may affect the calculation of creditable service for certain purposes.

J2. To what extent does nonpay status affect Federal employee benefits and programs?

- A. The effects of a nonpay status (which includes furlough, leave without pay, absence without leave, and suspension) on Federal employee benefits and programs vary based on current law and regulation. For additional information, see OPM's fact sheet on the "Effect of Extended Leave Without Pay (or Other Nonpay Status) on Federal Benefits and Programs" at http://www.opm.gov/oca/leave/HTML/LWOP_eff.asp.

K. Federal Employees on Military Duty

K1. Can employees who are taking military leave under 5 U.S.C. 6323 for days covered by a furlough continue to do so during a shutdown furlough?

- A. No. As with other types of paid leave, paid military leave must be canceled for days covered by the furlough.



For employees on active military duty, their status as Absent-Uniformed Service (formerly Leave Without Pay-Uniformed Service (LWOP-US)) is unchanged by periods of intermittent annual or military leave, per the guidance in Q&A 9 of the Frequently Asked Questions on Military Leave, at <http://www.opm.gov/oca/leave/HTML/MILQA.asp>.

K2. Will employees continue to receive a reservist differential payment (5 U.S.C. 5538) while on active duty when they are furloughed from their Federal civilian employment?

- A. No. The reservist differential payments are intended to make up the difference between the employee's customary civil service compensation and his or her military pay, and they are made from the funds of the employing agency appropriated for the payment of employees' salaries. Since funds are not available for employees' salaries during a furlough, no funds may be obligated towards any type of payment for reservist differential. However, if subsequent legislation is passed reimbursing employees their civilian pay for the period of the furlough, it will be necessary for the agency to calculate any reservist differential payments that may be owed.

K3. Will there be an impact on an employee's General Schedule or Federal Wage System within-grade increase (WGI) waiting period due to an employee being in an Absent—Uniformed Service status during a shutdown furlough?

- A. No. The furlough has no impact on an employee's General Schedule or Federal Wage System WGI waiting period if the employee is in an Absent-Uniformed Service status. An absence for the purpose of engaging in military service is creditable service in the computation of waiting periods for successive WGIs when the employee returns to a pay status through the exercise of a restoration right provided by law, Executive order, or regulation. See 5 CFR 531.406(c)(1)(i) and 5 CFR 532.417(c)(4).

L. Retirement

L1. If a shutdown furlough occurs during the 3 years of service prior to retirement, what effect will time in a furlough status have on an employee's high-3 average pay?

- A. Generally there will be no effect on the high-3 average pay unless the furlough causes the employee to be in a nonpay status for more than 6 months during the calendar year.



L2. Are the retirement rules concerning the effect of a shutdown furlough the same for employees under the Civil Service Retirement System and the Federal Employees Retirement System?

A. Yes.

L3. What will happen to employees who would have retired during a shutdown furlough?

A. For employees who, on or before the requested retirement date, submitted some notice of their desire to retire, agencies should, when the lapse in appropriations ends, make the retirement effective as of the date requested. The retirement request may be informal (such as a letter requesting retirement), and can be either mailed or personally submitted to the agency. Any additional required paper work, such as the formal retirement application form, may be completed when the agency reopens. No time spent by the retiree in such actions after the effective date of the retirement may be considered as duty time, since the individual would no longer be an employee of the agency.

M. Payments upon Separation from Federal Service

M1. If there is a shutdown furlough, how does this impact a separating employee's lump-sum payment for their unused annual leave?

A. In the event of a shutdown furlough, any payments incurred by the agency for an employee's lump-sum payment will be delayed until funds are available.

M2. How are separated employees' entitlements to severance pay affected by a shutdown furlough?

A. Funds for severance pay are obligated on a day-to-day basis as the recipient accrues continuing entitlement to severance pay by not being reemployed by the Government of the United States. (Severance pay is suspended or terminated when the individual is reemployed by the Federal Government.) Severance pay is paid at the same pay period intervals as if the recipient were still employed. Any severance payment (on a payroll payday) is linked to the corresponding pay period during which the recipient accrued continuing entitlement to severance pay. If the recipient is reemployed by the Federal Government during a pay period, he or she is entitled to a prorated severance payment covering the days in the period prior to reemployment (e.g., 2/5 of one week's pay if the recipient was reemployed on the third workday of the pay period).



Thus, in the case of a shutdown furlough, accrued but unpaid severance pay represents an obligation to be paid from funds available before the lapse in appropriations occurred. Just as payroll checks for work performed prior to a lapse in appropriations can be processed as part of the orderly suspension of nonexcepted activities, severance pay checks covering days before the lapse may also be processed.

No funds may be authorized for severance payments for days during the lapse until an appropriation is enacted.

Additional information on severance pay (including eligibility criteria and payment formulas) can be found at http://www.opm.gov/oca/pay/HTML/severance_pay.asp.

N. Continuation of Pay (COP)

N1. How is Continuation of Pay (COP) under the Federal Employees' Compensation Act affected by a Government shutdown?

- A.** The Department of Labor's Office of Workers' Compensation Programs which administers the Federal Employees' Compensation Act (FECA) advises that, in the event of a Government shutdown, an employee who is disabled due to his or her injury is to be maintained in COP status during the shutdown unless the agency does not have monies available to pay the salary of that employee. If the agency does not have monies to pay salary during the shutdown but the agency's budget is subsequently restored in such a way as to allow for retroactive payment of salary during the shutdown period, the employee should receive COP for any period of disability that occurs within the shutdown. In the event an agency is legally unable to pay COP to an employee because of a lapse in appropriations, the employee may file a claim for regular FECA wage loss compensation for that period.

O. Injury While on Furlough or LWOP

O1. Are employees who are injured while on furlough or LWOP eligible to receive workers compensation?

- A.** No. Workers compensation is paid to employees only if they are injured while performing their duties. Employees on furlough or LWOP are not in a duty status for this purpose. An employee who is receiving workers' compensation payments will continue to receive workers' compensation payments during a furlough and will continue to be charged LWOP.



P. Procedures

P1. Should agencies process SF-50s, or equivalent, for furloughed employees at the outset of the shutdown?

- A.** No. When the furlough begins, agencies should **not** prepare an SF-50, “Notification of Personnel Action” (or a List Form of Notice for a group of employees who are to be furloughed on the same day or days each pay period). Further guidance regarding documentation will be communicated to agencies at the conclusion of the furlough.